STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-058

November 9, 1998

CENTRAL MAINE POWER COMPANY
Divestiture of Generation Assets - Request for Approval of Sale of Generation Assets

EXAMINER'S REPORT

NOTE: This Report contains the recommendation of the Hearing Examiner. Although it is in the form of a draft of a Commission Order, it does not constitute Commission action. Parties may file responses or exceptions to this Report on or before November 16, 1998. It is expected that the Commission will consider this Report at its Deliberative Session on November 23, 1998.

I. SUMMARY

We approve the sale of generation assets from Central Maine Power Company (CMP) to FPL Energy Maine, Inc. (FPL-Me), because the sale is in the public interest. We find that the benefits of sale outweigh the detriments of the Letter Agreement between CMP and FPL-Me in which CMP agrees to support FPL-Me in certain NEPOOL and FERC transmission issues. We also adopt a ratemaking adjustment concerning the buyback transaction, that is discussed in a confidential appendix to the Order.

II. CMP'S DIVESTITURE PLAN AND PROCEDURAL HISTORY

With the passage of "An Act to Restructure the State's Electric Industry" (The Restructuring Act), CMP is required, with limited exceptions, to divest all generation assets and all

generation-related business activities by March 1, 2000. P.L. 1997, ch. 316 *enacting* 35-A M.R.S.A. § 3204(1). The Restructuring Act requires the divestiture to be accomplished according to a plan submitted to the Commission for review. The divestiture of generation assets is important both as a means to ensure effective competition and as a means to value generation assets for purposes of measuring stranded costs.

By orders dated December 24, 1997 and January 14, 1998, the Commission approved CMP's divestiture plan (the Divestiture Plan Orders). The plan was developed with the assistance of CMP's advisor, SBC Warburg Dillon Read, Inc. (Dillon Read). Following the recommendation of Dillon Read, CMP grouped the generation assets into diversified sales portfolios of hydro, fossil, biomass, nuclear interests and purchased power contract entitlements called business units. Business units could be bid on as separate groups, or as a total package. CMP and Dillon Read opted to conduct a two-phase bidding process, to maximize participation at each phase in order to produce the highest and most reliable bids at the end of the process.

On January 6, 1998, CMP selected National Energy Holdings, Inc., now known as FPL Energy Maine, Inc. (FPL-Me) as the winning bidder for the hydro, fossil and biomass business units. FPL-Me agreed to pay $846 million for the 31 hydro electric facilities totaling 373 megawatts, the three oil fired facilities, Wyman Units 1-4 in Yarmouth, Mason Station in Wiscasset and the Cape

Station in Cape Elizabeth and the biomass facility in Fort Fairfield owned by Aroostook Valley Electric Company (AVEC). CMP (and affiliates) and FPL-Me entered into an Asset Purchase Agreement, a Continuing Site Interconnection Agreement and two transitional power sales agreements describing and setting the terms for the proposed sale.

CMP rejected all bids for the nuclear interests and purchased power contract entitlement business units. As part of the last business unit, CMP also rejected all bids for its interests in the Hydro Quebec tie-line, the only generation-related asset not proposed to be sold to FPL-Me that CMP must divest by March 1, 2000.[1] In our January 14 Order, we discussed that ratepayers may benefit if power entitlements were sold for periods shorter than the length of the contracts and then rebid. A periodic rebid strategy could provide a hedge for ratepayers if market price expectations substantially increase, because the other generating assets are valued based on today's expectations of future market clearing prices. We agree with CMP's decision that none of the bids for the nuclear or contract entitlements was of sufficient value to warrant abandoning the periodic re-bid option.

On February 20, 1998, CMP filed a petition seeking 1) approval to divest the hydro, fossil and biomass generation assets pursuant to the Commission's Order Approving CMP's

[1] Section 3204 provides for the Commission to promulgate a rule on waiving the divestiture requirement in certain circumstances.

Divestiture Plan, 2) approval to sell the generation assets pursuant to 35-A M.R.S.A. §§ 1101 and 1104, and 3) any further approval that may be required under Maine public utilities law for such divestiture and sale. Petitions to intervene were granted on behalf of the Office of the Public Advocte (OPA), Regional Waste Systems, Conservation Law Foundation and Appalachian Mountain Club, Power Generation, Inc., the Industrial Energy Consumer Group (IECG), the City of Lewiston, the Independent Energy Producers of Maine (IEPM) and Miller Hydro.

On June 16, 1998, CMP and FPL-Me executed a Term Sheet Regarding Supplemental Agreements (including a First Amendment to Asset Purchase Agreement) (Term Sheet), a First Amendment to Continuing Site/Interconnection Agreement and a Letter Agreement regarding Interconnection Agreement (Letter Agreement). The June 16 Supplemental and Amendment Agreements pertain to 1) the sale of certain hydro storage facilities held by CMP and its subsidiaries on the Kennebec and Androscoggin Rivers; 2) the sale of certain real property and rights associated with their various hydro facilities that were not included in the January 6, 1998 Asset Purchase Agreement; 3) the sale of 2,100 SO_2 allowances obtained from the Conservation and Renewable Energy Reserve; 4) adjustment of the closing date for the biomass asset;[2] 5) the reimbursement of certain employee relocation expenses; and 6)

[2] At the request of Houlton Water Company (HWC), CMP and FPL-Me agreed that transfer of the biomass plant would not take place before February 3, 1999. The biomass plant is the principal means by which CMP meets a supply commitment to HWC that extends until February 3, 1999.

issues relating to the Continuing Site/Interconnection Agreement. Pursuant to the Term Sheet, FPL-Me agreed to pay an additional $1.5 million for the additional assets increasing the total purchase price to $847.5 million.

On June 23, 1998, CMP amended and supplemented its February 20, 1998 Petition to seek Commission approval for the disposition of the hydro storage facilities, the additional lands and property rights and the 2,100 SO_2 allowances that are subject to the Term Sheet. By its Petition, as amended and supplemented, CMP requested approval of the integrated transaction with FPL-Me as embodied by the four contracts, the Term Sheet, and the Letter Agreement.

On June 16, 1998, CMP, the Public Advocate, IECG, IEPM and Miller Hydro entered into and filed a Partial Stipulation which, if approved would have resulted in the approval of the sale covered by CMP's February 20 Petition. During the July 2, 1998 hearing on the Partial Stipulation, the IECG revoked its support of the Partial Stipulation based on concerns with the Letter Agreement. The IECG alleged that the Letter Agreement "fundamentally changed" the transaction between CMP and FPL-Me such that the IECG felt it could no longer support the Partial Stipulation. The OPA also withdrew its support of the Partial Stipulation.

By letter dated July 14, 1998, CMP sought to withdraw the request in its June 23 Amendment and Supplement to Petition for

approval of the Letter Agreement on the grounds that the Maine Commission did not have authority to approve the Letter Agreement. CMP subsequently "withdrew its request to withdraw" at the July 17, 1998 Conference of Counsel and seeks approval of the integrated transaction. CMP claims that while the Letter Agreement does not need approval *per se*, the Letter Agreement is a necessary part of the sale agreement that does require Commission approval.

By its terms, the Letter Agreement clarifies certain issues relating to the implementation of the Continuing Site/Interconnection Agreement of January 6, 1998, as amended by the First Amendment of June 16, 1998 (the Interconnection Agreement). The pertinent sections of the Letter Agreement, Sections 2 through 4, require CMP to support specific positions and to make certain efforts regarding transmission policy related to new generation. These transmission policies are made by NEPOOL, of which CMP is a voting member, subject to review and ultimate approval by the Federal Energy Regulatory Commission (FERC). In Section 2, CMP agrees that it will support the position that modifications that do not change the maximum capability or electrical characteristics of a generating facility should not result in the need for modification of the transmission system or affect any priority of use of the transmission system. In addition, CMP agrees to support the position that only the increase in capability associated with

such modifications be treated as recommended with respect to the impact on the transmission system.

The third section specifies that system impact studies done by CMP to determine if new transmission is required as a result of new generation shall assume maximum stress on the system, as the NEPOOL Agreement now requires, and will continue to do so until specifically prohibited by FERC, NEPOOL or ISO-NE. System Impact studies are performed by the host utility in conjunction with ISO-New England staff. Section 18.4 of the Related NEPOOL Agreement requires review and approval by NEPOOL Committee's before a participant can implement a proposed change. The third section also provides that CMP will use commercially reasonable efforts to uphold this procedure and take no action to change the procedure.

In the fourth section, CMP agrees to support the position that costs associated with building transmission for new generation will either be rolled into NEPOOL transmission rates or directly assigned to the developer of the new generation. Also, if new transmission is not built, CMP will advocate for the position that existing generation should have priority of use and curtailment rights over any new generation.

III. POSITION OF THE PARTIES

All parties that have filed briefs, CMP, IECG and the OPA, believe the Commission should ultimately approve the sale transaction. Disagreement arises as to the timing of that

approval and the action, if any, that the Commission should take with respect to the Letter Agreement. At least some of the parties also disagree as to whether Commission action with respect to the Letter Agreement affects CMP's legal ability to close the sale transaction.

A. CMP

CMP urges the Commission to approve the proposed asset sale to FPL-Me pursuant to the terms of the integrated transaction. In CMP's view, the Letter Agreement was a necessary price to pay as part of an overall transaction that is highly beneficial to Maine ratepayers because it maximizes the value of CMP's generation assets and thereby reduces the stranded cost burden. Even after January 6, 1998, CMP was obligated to pursue the matters ultimately stated in the Letter Agreement because under Article 7.4(d) of the Asset Purchase Agreement, CMP and FPL-Me "agree[d] to negotiate and enter into in good faith such further agreements as may be necessary for operating the Purchased Assets after the Closing Date." Thus, in CMP's view, when it became apparent that FPL had concerns about transmission access and transmission pricing as stated in the January 6 Agreements, CMP was obligated to and in fact it was in CMP's interest to clarify any misunderstandings related to the sale transaction.

CMP also argues that the OPA's and IECG's opposition to the substantive positions stated within the Letter Agreement are

matters within the FERC's jurisdiction and therefore not a matter that this Commission should consider in deciding whether to approve the sale transaction. In any event, CMP asserts that the Letter Agreement does not give FPL-Me any extraordinary rights but only those rights that any prudent purchaser of CMP's generation assets would demand because the ability to deliver the electric power to market is an intrinsic part of the asset purchase. Hence, the transmission access assurances demanded by FPL-Me were reasonable. The fact that those assurances are included within the current terms of CMP's and NEPOOL's open access transmission tariff (OATT) confirms the reasonableness of FPL's and the Letter Agreement positions.

CMP also claims that the provisions within the Letter Agreement, although a clarification of the interconnection agreement that has a 30-year term, will have practical effect for only a short period of time. In CMP's view, its obligation to support a position at NEPOOL and FERC effectively endures only until the applicable NEPOOL policy is established. Once established and approved by FERC, CMP will simply follow the new FERC established policy. CMP has no continuing obligation to lobby NEPOOL or FERC to adopt the policy that has been rejected or abandoned.

In response to IECG's assertion that it is unreasonable for CMP to sell its NEPOOL vote, CMP concedes that it has committed to take certain positions at NEPOOL and FERC on issues

as stated in the Letter Agreement. According to CMP, contract common law would require CMP to advocate FPL's interest at NEPOOL because otherwise FPL would be substantially deprived of the benefits of the bargain FPL should obtain in the asset sale.

CMP asserts that IECG's suggestion to sever the Letter Agreement from the integrated transaction poses an unacceptable risk because FPL-Me could claim the specific disapproval of the Letter Agreement by the Maine PUC constitutes the absence of a necessary regulatory approval upon which closing of the sale transaction is dependent.

B. IECG

The IECG argues that CMP acted unreasonably by selling its NEPOOL vote; by engaging in collusive litigation when negotiating the Letter Agreement with FPL-Me and the stipulation with the parties in this docket simultaneously; and by promising to vote for and advocate a transmission policy that is contrary to the Restructuring Act and detrimental to ratepayers. In the IECG's view, the Letter Agreement constitutes an unjust and unreasonable act or practice by a utility that the Commission should stop by rejecting the Letter Agreement. While IECG concedes that the Asset Purchase Agreement itself is beneficial to ratepayers and should be approved, it argues that the Letter Agreement is separate from the January 6 agreements and therefore can be rejected without permitting FPL to escape the obligations of the January 6 agreements.

IECG also argues that the Letter Agreement is an unreasonably open-ended commitment for CMP to use its NEPOOL influence on behalf of FPL-Me. IECG dismisses CMP's claim about the insignificance of CMP's 7% control over NEPOOL. IECG argues that CMP maintains significant discretion in many areas, such as conducting system improvement studies, and that much of NEPOOL's work is done in committees and subcommittees where CMP's participation has been significant. Thus, according to IECG, the sale of the transmission and distribution utility's NEPOOL votes to the owner of the generation assets violates the intent behind the Restructuring Act which requires the separation of generation from transmission and distribution.

C. OPA

The Public Advocate argues that the Commission should approve the sale transaction to FPL-Me. Ratepayers however will be harmed by the Letter Agreement and therefore the Commission should not endorse the Letter Agreement and should participate at FERC to advocate that the positions advanced in the Letter Agreement stifle competition. Although the Commission should not approve the Letter Agreement, the OPA argues that endorsement by the Commission of the Letter Agreement is not a necessary component of the regulatory approvals needed for the FPL-CMP sale to close.

IV. DECISION

By the Restructuring Act, CMP must divest its generation assets in accordance with the Commission orders of December 24, 1997 and January 14, 1998. The Divestiture Plan Orders contemplate Commission approval of any sale of generation assets pursuant to 35-A M.R.S.A. § 1101, which requires approval of the sale of any necessary or useful asset, and perhaps as a necessary part of the Divestiture Plan itself.

A. Public Interest Standard

As the plan itself does not provide guidance as to the standard to be applied in approving a sale, we will use the section 1101 standard. To grant approval pursuant to section 1101 to sell utility property, the Commission must find the sale to be in the public interest. Maine Yankee Atomic Power Company, Docket No. 83-21 (Nov. 4, 1983). We must approve asset sales "to protect ratepayers against an imprudent sale by the utility of equipment useful to the public." Central Maine Power Company, Advisory Ruling on 35 M.R.S.A. § 211,[3] Docket No. 83-175, at 3 (Sept. 8, 1983). Cf. Central Maine Power Company, Docket No. 93-317 (Feb. 2, 1994) (authorization to lease substation to Portland Pipeline denied) and Central Maine Power Company, Docket No. 92-006 (Feb. 19, 1992) (sale of dam for $1 approved because economically beneficial to ratepayers).

[3] 35 M.R.S.A. § 211 was the predecessor section to 35-A M.R.S.A. § 1101

Obviously, the Legislature has already decided that sales by electric utilities of their generation assets are in the public interest. The Divestiture Plan Orders provide guidance in determining whether a proposed sale serves the public interest. A sale should not be accomplished in a way that inhibits effective competition in generation services, for instance by concentrating market share unreasonably. Furthermore, the time and manner of the auction process must be reasonably conducted to bring about the highest possible value of the generation assets.

B. Asset Purchase Agreement with FPL-Me

All parties agree that, apart from the Letter Agreement, the sale of assets to FPL-Me should be approved. Although the parties no longer support their stipulation of June 16 because of the Letter Agreement, the parties apparently continue to believe that the FPL-Me sale satisfies the Restructuring Act requirement of reasonably attaining the highest possible value of the generation assets.

We agree that the sale agreement offers many benefits to ratepayers, and that CMP and its advisors conducted the auction process in a reasonable manner likely to bring about vigorous, competitive bidding. We also agree with CMP that the auction process was more likely to maximize value than other modes of sale or transfer, such as spin-offs. Issues exist, however, concerning whether CMP has chosen amongst bids, including buy-back arrangements, in a manner that reasonably

maximizes the value obtained by CMP. These issues are made more significant by the additions to the deal in the June 16 agreements. We believe that for stranded cost ratemaking purposes, we must determine whether CMP has reasonably maximized the net value obtained from selling its assets. Because the actual bids, including buybacks and other power supply options, are subject to protective orders, and must remain confidential until actual transfer of the assets proposed to be sold, we discuss those issues in Appendix A, which is subject to Protective Order No. 1.

The discussion, however, of whether CMP has maximized the reduction to stranded costs involves ratemaking issues and does not bear on whether to approve the proposed sale. A disapproval of this sale would require CMP to rebid the assets. Disapproval would not permit CMP to choose amongst the bids in this process, including any buyback options. Those bids and power supply options have expired.

The evidence in this case tends to support CMP's position that auctions conducted early in the restructuring process will fare better than those later in the process. It is a more likely possibility that another auction will produce a maximum value less than the FPL-Me sale proposed here. Thus, we find that, even if CMP is found not to have maximized the value from this auction process, neither ratepayers nor shareholders should bear the risk that a second auction will not produce the

total value of the FPL-Me deal. We agree then with the parties that absent the Letter Agreement issues, the sale transaction should be approved. We next turn to the Letter Agreement issues.

C. Letter Agreement

In the Divestiture Plan orders we articulated concerns that a sale of generation assets may result in market concentrations that would inhibit effective competition. However, all parties agree and the evidence supports a finding that the sale to FPL-Me does not create or worsen market power problems in any relevant generation market.

The IECG now argues, however, as does the OPA to a lesser extent, that the Letter Agreement threatens effective competition. CMP denies that the Letter Agreement is of any significance to the restructuring issues relevant to deciding the sale approval issues.

Both sides to this debate have failed to perceive the weaknesses within their own arguments. CMP is correct in asserting that the subject mater of the Letter Agreement is within FERC and not Maine PUC jurisdiction. However, the Legislature recognized the importance of federal issues such as these when it required the Commission to monitor the management of competitive access to the transmission system. 35-A M.R.S.A. § 3217(3). Divestiture is required to deregulate generation or "restructure" the industry. As the IECG correctly points out, for the restructured, deregulated generation industry to function

properly, the transmission system must be reliable and accessible. Moreover, CMP asserts that the Letter Agreement is an integral part of the divestiture that CMP proposes. Thus, even though the subject matter of the Letter Agreement pertains to FERC issues, in order to determine that the sale to FPL-Me is in the public interest, we must review the merits of the Letter Agreement.

CMP also dismisses too lightly the arguments about the significance of the value given to FPL-Me as part of the Letter Agreement. CMP asserts that its NEPOOL support, as no more than 7% of the votes, will not carry the day. However, as IECG correctly points out, the separation of generation from transmission and distribution is the very definition of electric restructuring. An agreement that realigns the interest of Maine's largest T&D utility with the interests of a generator should not be taken lightly.

Moreover, the transmission access policies may be made in formal NEPOOL votes and FERC proceedings, but the policies tend to be both established and implemented in committees and subcommittees, where CMP's influence and participation has been significant. Considerable discretion also is retained by the entity conducting System Integration Studies (SIS).

Lastly, CMP asserts that all other bidders were aware of and bid on similar benefits as those within the Letter Agreement. Yet that assertion appears contrary to the draft

Interconnection Agreement made available to all bidders and to the initial position taken by CMP in negotiations between CMP and FPL-Me between January 6 and June 16.

Thus, we agree with the IECG and OPA that, standing alone, the Letter Agreement is not in the ratepayers' interest. The T&D's NEPOOL vote is not a generation asset that should be for sale. Entry into the generation market is necessary for the market to become competitive, and the transmission policies that CMP must support by the terms of the Letter Agreement may inhibit new entry.[4]

Of course, the Letter Agreement does not stand alone, but is part of a sale transaction that results from a well-conducted well-timed auction process. The IECG asserts that the Letter Agreement is not integral to the sale transaction by arguing that the Letter Agreement is separate and independent from the January 6 agreement. The IECG's arguments to show the legal separation of the "two" agreements omit the fact that the two parties to the transaction state that the Letter Agreement is integral and a necessary part of the Asset Purchase Agreement. We cannot agree with the IECG then, that our rejection of the Letter Agreement would not affect the legal obligations of FPL-Me as to performance of the remaining terms of the sale transaction. While we may not view the Letter Agreement as merely clearing up

[4] However, we see no basis for IECG's allegation that the timing of the partial stipulation and the Letter Agreement constitutes collusive litigation.

ambiguity within the January 6 Interconnection Agreement as CMP claims, we also cannot ignore that the Letter Agreement is now executed and, by its terms, part of the sale transaction. We cannot condition approval of the sale on the removal of Letter Agreement without giving FPL-Me the ability either to accept the condition or reject the entire transaction.

After assessing the entire transaction, we find approval of the sale is in the public interest, despite our misgivings about the Letter Agreement. Divestiture is of course required by the Restructuring Act. Thus, a sale of these assets must occur. The evidence presented in this case indicates that, overall, a sale under these terms and at this time is in the public interest. The sale price is the result of a well-conducted auction; a favorable price when compared to other utility asset sales conducted recently. The negatives presented by the Letter Agreement simply do not rise to a level sufficient for the Commission to forego the certain benefits that will flow for the sales transaction. While it is inappropriate to integrate a T&D's NEPOOL responsibilities with that of a generator, we agree with the OPA and CMP that ultimately the impact of the conditions of the Letter Agreement are not significant enough to reject the sale. Thus, we cannot agree with IECG that as a "sale of its NEPOOL vote," the Letter Agreement is a per se unreasonable act or practice by CMP that

must be rejected. The NEPOOL influence "sold" by CMP is limited to transmission access policy, a policy that interests many participants and that will ultimately be decided by FERC and not NEPOOL.

In fact, FERC recently decided that NEPOOL must revise the SIS procedures without the 100% integration assumption and develop a congestion management proposal in conjunction with the revised study procedure by March 31, 1999. [FERC Dockets EL98-69-000 and ER98-3853-000] These recent FERC decisions illustrate that FERC is aware of the problems inherent in the current SIS procedures and that it is unlikely that the Letter Agreement could grant FPL-Me with an advantage that will render competition ineffective.

The parties disputed the length of time CMP is obligated under the Agreement to pursue FPL's interests at NEPOOL and the extent to which CMP was obligated to act in accordance with FPL's interests if NEPOOL or FERC required changes to the current SIS process. The IECG asserts that the Letter Agreement is an open-ended commitment. CMP describes a more limited obligation that would endorse only until the applicable policies and procedures are established by FERC. CMP would act in accordance with these policies and procedures, once established, and have no continuous obligation to represent or act to support FPL's interests. In approving the asset sale, we accept the description by CMP of its obligations under the Letter Agreement

and expect CMP's future actions to conform to this description.

By arguing that the Commission should delay our decision, we note that the IECG agrees that the benefits of the sale transaction should not be sacrificed to avoid the harm of the Letter Agreement. As discussed, we find the benefits of the sale outweigh the negatives of the Letter Agreement, such that we will not risk those benefits to determine whether FPL-Me will give up the Letter Agreement. Nor will we delay our decision until FERC acts on the FPL/CMP application. The FERC decision of [Oct. 28] indicates that FERC will not likely decide transmission access issues in a way that will threaten effective generation competition. We see no gain in waiting to review FERC's action on the CMP/FPL-Me application before we approve the sale.

E. EWG Findings

CMP requests that the Commission issue Exempt Wholesale Generation (EWG) findings with any order that approves the sale of the hydro, fossil and biomass to FPL-Me. FPL plans to file applications for EWG determinations with the FERC. Because the facilities to be sold to FPL were reflected in rates on October 24, 1992, under FERC regulations, 18 C.F.R. § 365.3(b), the Maine Commission must certify that allowing the facilities to be eligible:

(1) will benefit consumers;

(2) is in the public interest; and

(3) does not violate Maine law.

FERC has required an EWG application to include a certification that the state commission has made the necessary findings noted in the previous sentence.

We have already described that the transfer of the generating assets to FPL-Me is in the public interest. Consumers will benefit by the implementation of the Legislature's requirements of separation of generation for transmission and distribution, as well as by the significant reduction in stranded costs. Lastly, the assets are transferred because of state law, obviously not in violation of state law. Because the Restructuring Act separates generation from transmission and distribution and will remove generators from the definition of electric utility, allowing the FPL facilities to be eligible facilities: (1)will benefit consumers; (2) is in the public intrust; and (3) does not violate Maine law

F. Findings Relating to Generation-Asset-Related Rights, Privileges and Immunities

During the last legislative session, a law was passed that provides utilities with legislative authority to convey its generation-asset-related rights, privileges and immunities that are required to be divested under the Restructuring Act. The new law, codified at 35-A M.R.S.A. § 3204(8), authorizes the transfer of generation-asset-related rights, privileges and immunities, but only after (1) the utility provides to the Commission a copy of the law granting the rights and a description of the proposed

transfer and (2) the Commission specifically finds that the law grants rights, privileges, or immunities that are generation assets required to be divested or that are necessary to the ownership or operation of generation assets required to be divested.

On June 25, 1998, CMP provided a copy of laws that grant to CMP or its affiliates (or their predecessors) the rights, privileges or immunities that CMP believes are generation-asset-related and that CMP proposes to transfer to FPL-Me.

Having examined the laws provided to the Commission by Central Maine Power Company pursuant to 35-A M.R.S.A. § 3204(8), the Commission finds that:

(1) With respect to the facilities listed below, the Mill Act (38 M.R.S.A. § 651) grants rights, privileges or immunities that are generation assets required to be divested under 35-A M.R.S.A. § 3204 or that are necessary to the operation of generation assets required to be divested under that section:

Kennebec River Generation
- Harris (Indian Pond)
- Wyman
- Williams
- Weston
- Shawmut
- Lockwood

Kennebec River Storage
- Brassua
- Moosehead

Messalonskee Stream Generation
- Oakland (M-2)
- Rice Rips (M-3)
- Union Gas (M-5)

Sebasticook River Generation
- Fort Halifax

Androscoggin River Generation

Gulf Island Project
- Gulf Island
- Deer Rips
- A-3

Brunswick-Topsham

Lewiston Falls Project
- Monty
- Bates Upper
- Bates Lower
- Hill Mill
- Lower Androscoggin
- Continental

Saco River Generation
- Hiram
- Bonny Eagle
- West Buxton
- Bar Mills
- Skelton

Cataract Project
- Cataract
- NKL

Presumpscot River Generation
Upper Kezar Falls
Lower Kezar Falls

Little Ossippee River Generation
Ledgemore

(2) With respect to the Long Falls Dam (Flagstaff) facility, P. & S.L. 1927, ch. 113 and P. & S.L. 1937, ch. 62, and all other amendments thereto[5] grant rights, privileges or immunities that are generation assets required to be divested or that are necessary to the ownership or operation of generation assets required to be divested.

(3) With respect to the Middle Dam at Richardson Lake, the Upper Dam at Mooselucmegantic Lake and the dam at Rangeley Lake, P.&S.L. 1885, ch. 448 grants rights, privileges or immunities that are generation assets required to be divested or that are necessary to the ownership or operation of generation assets required to be divested.

(4) With respect to the Aziscohos Dam, P.&S.L. 1909, ch. 147 grants rights, privileges or immunities that are generation assets required to be divested or that are necessary to the ownership or operation of generation assets required to be divested.

[5] The amendments to Kennebec Reservoir Company's charter are: P.&S.L. 1929, ch. 96; P.&S.L. 1931, ch. 64; P.&S.L. 1933, ch. 74; P&S.L. 1935, ch. 37; P.&S.L. 1939, ch. 14.

G. Conclusion

For the reasons stated above, we approve the sale of the hydro-electric, fossil, and biomass business units of generation assets by Central Maine Power Company to FPL Energy Maine.

Respectfully submitted,

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Hearing Examiner

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